

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

GREGORY BRIAN WILLIS,  
Plaintiff,

Case Number: 09-13406  
HONORABLE AVERN COHN

v.

DETROIT POLICE SERGEANT  
JIM GRAHAM , et al.,

Defendants.

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**ORDER ADOPTING REPORT AND RECOMMENDATION (Doc. No. 33)**  
**AND**  
**DISMISSING DOE DEFENDANTS**

I.

This is a prisoner civil rights case under 42 U.S.C. § 1983. Plaintiff is proceeding pro se and in forma pauperis. Plaintiff is suing defendants claiming that he was wrongfully prosecuted, that defendants lacked probable cause for the prosecution, and that the prosecution was undertaken with recklessness and malice. The matter has been referred to a magistrate judge for all pretrial proceedings. The magistrate judge issued a report and recommendation (MJRR) recommending that the John Doe defendants be dismissed.

II.

Neither party has filed objections to the MJRR and the time for filing objections has passed. The failure to file objections to the report and recommendation waives any further right to appeal. Smith v. Detroit Federation of Teachers Local 231, 829

F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motions. Thomas v. Arn, 474 U.S. 140, 149 (1985). However, the Court has reviewed the MJRR and agrees with the magistrate judge.

### III.

#### A.

Accordingly, the findings and conclusions of the magistrate judge are ADOPTED as the findings and conclusions of the Court. The John Doe defendants are DISMISSED.

#### B.

Some further comment is in order. Plaintiff's complaint named "unknown defendant Detroit Police Officers." See Doc. No. 1. Plaintiff later submitted a letter to the Court identifying Jim Graham as a defendant. See Doc. No. 6. At that point, Graham was served with and answered the complaint. See Doc. Nos. 7,8, and 11.

Plaintiff then filed a motion to amend his complaint in which he identified Investigator Amir Smith as a defendant. See Doc. No. 26. Graham responded to the motion, stating he had no objection to the amendment. In that filing, Graham listed both himself and Smith as defendants. See Doc. No. 28. The magistrate judge granted plaintiff's motion to amend and directed plaintiff to file an amended complaint by May 24, 2010. See Doc. No. 31. To date, plaintiff has not filed an amended complaint adding Smith or any other defendant. Thus, although "identified," Smith is not a proper

defendant because plaintiff has not filed an amended complaint as directed by the magistrate judge. Graham is the sole defendant at this time.

SO ORDERED.

Dated: September 30, 2010

s/Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to Gregory Willis, #207545, 11075 McKinney, Detroit, MI, 48224 and the attorneys of record on this date, September 30, 2010, by electronic and/or ordinary mail.

s/Julie Owens  
Case Manager, (313) 234-5160